

AMENDED IN SENATE JUNE 2, 2014  
AMENDED IN SENATE JUNE 18, 2013  
AMENDED IN ASSEMBLY MAY 28, 2013  
AMENDED IN ASSEMBLY MAY 9, 2013  
AMENDED IN ASSEMBLY APRIL 23, 2013  
AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 609**

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**Introduced by Assembly Members Nestande and Gatto**  
**(Coauthors: Assembly Members Beth Gaines, Maienschein, Olsen,**  
**and Skinner)**  
**(Coauthor: Senator Hill)**

February 20, 2013

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An act to add *and repeal* Chapter 2.5 (commencing with Section 13989) ~~to~~ of Part 4.5 of Division 3 of Title 2 of the Government Code, relating to state government.

### LEGISLATIVE COUNSEL'S DIGEST

AB 609, as amended, Nestande. State-funded research.

Existing law authorizes the Department of General Services to carry out various powers and duties relating to assisting a state agency in the management and development of intellectual property developed by state employees or with state funding, including, among other duties, developing a database of state-owned intellectual property using specified data.

Existing law authorizes state agencies and departments to, upon request, share records and information related to intellectual property generated by state employees or with state funding with the department. Existing law also imposes certain restrictions on employees and former employees of the department with respect to divulging certain information provided by state agencies and departments regarding intellectual property.

This bill would enact, *until January 1, 2020*, the California Taxpayer Access to Publicly Funded Research Act. The bill would establish ~~minimum~~ publication requirements for a ~~person~~ *grantee* receiving funding, in whole or in part, in the form of a research grant from a state agency. *The bill would require a state agency providing funding in the form of a research grant to include specified terms and conditions that are required to be adhered to as a condition of the grantee receiving the research grant.* The bill would require the ~~grant recipient~~ *grantee* to provide for public access to any publication of a state agency-funded invention or state agency-funded technology, as specified, including ~~ensuring that submitting~~ an electronic version of the ~~final~~ peer-reviewed manuscript ~~is submitted to the funding state agency or to an appropriate publicly accessible database approved by the agency, and is state agency to be made publicly available no not later than 12 months after the official date of publication, except as specified.~~

~~The bill would make legislative findings in support of granting public access to state-funded research and inventions. The bill would also express the intent of the Legislature to encourage all grantees to abide by the publication requirements outlined in the California Code of Regulations for stem cell research California Institute for Regeneration Medicine grants, as specified. The bill would exempt provide that this act does not apply to a grantee that receives funding from an a state agency that has an existing publication requirement that meets or exceeds the requirements of this bill.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Chapter 2.5 (commencing with Section 13989)
- 2 is added to Part 4.5 of Division 3 of Title 2 of the Government
- 3 Code, to read:

CHAPTER 2.5. STATE-FUNDED RESEARCH

13989. This act shall be known and may be cited as the California Taxpayer Access to Publicly Funded Research Act.

13989.2. For the purposes of this chapter, ~~“state agency” shall mean an entity within the executive branch, including, but not limited to, all departments, boards, bureaus, commissions, councils, and offices. Neither the University of California, nor the California State University, is included in the definition of state agency.~~ chapter the following definitions shall apply:

(a) *“Peer-reviewed manuscript” means a manuscript after it has been peer reviewed and in the form in which it has been accepted for publication in a scientific journal.*

(b) *“State agency” has the same meaning as defined in Section 10295.1 of the Public Contract Code.*

13989.4. (a) The Legislature finds and declares all of the following:

(1) The state is home to many of the world’s top research universities, national laboratories, and leading-edge high-technology companies that generate significant intellectual property.

(2) It is in the interest of the state to ensure that the results of state-funded research are promptly developed and protected and to ensure free public Internet access to the results, where appropriate.

(3) The expansion of innovation with the investment of taxpayer dollars in the form of publicly funded grants could generate public benefit, including, but not limited to, reinvestment in research, development of new innovations, and jobs created from these types of research.

(b) It is the intent of the Legislature that any grantee who receives funding in the form of a research grant from a state agency abide by the publication requirements outlined in subdivisions (a) to (d), inclusive, of Section 100303 of Title 17 of the California Code of Regulations, as amended on March 21, 2013, and in effect on July 1, 2013.

1 13989.6. (a) (1) Any grantee that receives funding, in whole  
2 or in part, in the form of a research grant from a state agency shall  
3 provide for free public access to any publication of a state  
4 agency-funded invention or state agency-funded technology, as  
5 provided in this section.

6 (2) *A state agency that provides funding, in whole or in part,*  
7 *in the form of a research grant shall include the following terms*  
8 *and conditions in the research grant that are required to be*  
9 *adhered to by the grantee as a condition of receiving the research*  
10 *grant:*

11 (A) *Pursuant to subdivision (b), grantees may provide data to*  
12 *the state agency to request that the 12-month time period be*  
13 *extended by up to 18 months.*

14 (B) *Grantees are responsible for ensuring that any publishing*  
15 *or copyright agreements concerning submitted articles fully comply*  
16 *with this section.*

17 (C) *Grantees shall report to the state agency the final disposition*  
18 *of the research grant, such as, but not limited to, if it was*  
19 *published, when it was published, where it was published, and,*  
20 *when the 12-month time period that may be extended by up to 18*  
21 *months pursuant to subdivision (b) expires, and where the*  
22 *manuscript will be available for open access.*

23 (D) *State agencies shall retain information regarding all issued*  
24 *research grants that resulted in published works.*

25 (b) For any manuscript that is accepted for publication in a  
26 peer-reviewed journal, *pursuant to the terms and conditions of the*  
27 *grant, the grantee shall ensure that submit an electronic version of*  
28 *the final peer-reviewed manuscript is submitted to the funding*  
29 *state agency or to an appropriate publicly accessible database*  
30 *approved by the state agency, including, but not limited to, the*  
31 *University of California's eScholarship Repository at the California*  
32 *Digital Library, PubMed Central, or the California Digital Open*  
33 *Source Library, to be made publicly available no not later than 12*  
34 *months after the official date of publication. If the grantee provides*  
35 *data to the state agency showing there is a more appropriate time*  
36 *period for that field of study, the grantee may request that the not*  
37 *later than 12-month time period be extended by up to 18 months.*  
38 Manuscripts submitted to the California Digital Open Source  
39 Library shall be exempt from the requirements in subdivision (b)  
40 of Section 66408 of the Education Code. The grantee shall make

reasonable efforts to comply with this requirement through submission of the manuscript to an approved publicly accessible database, including notifying the ~~funding state~~ agency of submission. If the grantee is unable to submit the manuscript to an approved publicly accessible database, the grantee may comply by providing the manuscript to the ~~funding state~~ agency, ~~no~~ not later than 12 months after the official date of publication. In lieu of the ~~final~~ peer-reviewed manuscript, the grantee may submit the final published article.

(c) For publications other than those described in subdivision (b), including meeting abstracts, the grantee shall comply by providing the manuscript to the ~~funding state~~ agency, ~~no~~ not later than 12 months after the official date of publication.

(d) (1) Grantees are responsible for ensuring that any publishing or copyright agreements concerning submitted articles fully comply with this section.

(2) *Nothing in this chapter shall be construed to authorize any use of a peer-reviewed manuscript that would constitute an infringement of copyright under the federal copyright law described in Section 101 of Title 17 of the United States Code and following.*

(e) Grantees are authorized to use grant money for publication costs, including fees charged by a publisher for color and page charges, or fees for digital distribution.

(f) This chapter shall not apply to a grantee that receives funding from a state agency ~~or funding agency~~ that has an existing publication requirement that meets or exceeds the requirements of this section, on or before the effective date of this chapter.

13989.8. *This chapter shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.*